

**COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 03-MSRC-001**

**COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF MINES AND MINERALS**

COMPLAINANT

v.

**DAVID GIST, ALFRED GIBSON,
ROLAND DAUGHERTY, FREDDIE JONES,
CHARLES MOORE, KEITH JONES, ET AL.**

RESPONDENTS

**FINAL ORDER REGARDING
RESPONDENT CHARLES MOORE**

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant and Respondent Charles Moore, and the members of the Commission having reviewed the Settlement Agreement filed on March 11, 2003 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY ORDERED as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The Respondent, Charles Moore's Shotfirer and Drill Operator's Certificate, # LO-**-**, issued by the Commonwealth of Kentucky, shall be placed on probation for a period of one (1) year, effective March 11, 2003;
3. During said probationary period, if Respondent Moore commits any intentional violation of state or federal mine safety laws, or orders anyone to violate state or federal mine safety laws, the KDMM may file a motion with the Mine Safety Review Commission to revoke certificate # LO-**-**;

4. The Respondent, Charles Moore's Assistant Underground Mine Foreman's Certificate, # A-***-**, issued by the Commonwealth of Kentucky, shall be placed on probation for a period of one (1) year, effective March 11, 2003;

5. During said probationary period, if Respondent Moore commits any intentional violation of state or federal mine safety laws, or orders anyone to violate state or federal mine safety laws, the KDMM may file a motion with the Mine Safety Review Commission to revoke certificate # A-***-**;

6. The Settlement Agreement signed by the parties and filed with the Commission shall be incorporated by reference and attached hereto;

7. This Final Order shall be considered to constitute a "first offense" as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent Moore, resulting in an adjudication of guilt by the Commission, shall be deemed "subsequent offenses" as defined by 805 KAR 8:010, Section 1(13); and

8. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, Charles Moore, in this matter. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission. Pursuant to KRS 351.194(8), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within

thirty (30) days of the entry of an order.

Entered this _____ day of March 2003.

BAYARD V. COLLIER, CHAIR
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER REGARDING RESPONDENT CHARLES MOORE was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this _____ day of March 2003:

CHARLES MOORE

WILLIAMSBURG KY *****

And by regular mail, postage pre-paid to:

DAVID GIST

GIRDLER KY *****

ALFRED GIBSON

BEAR BRANCH KY *****

ROLAND DAUGHERTY

WILLIAMSBURG KY *****

FREDDIE JONES

WILLIAMSBURG KY *****

KEITH JONES

WILLIAMSBURG KY *****

And by messenger mail to:

COMMISSIONER FRANK DELZER
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

HON. TONY OPPEGARD
GENERAL COUNSEL
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

And the original shall be kept on file:

MINE SAFETY REVIEW COMMISSION
132 BRIGHTON PARK BLVD.
FRANKFORT KY 40601

DIANE SCHULER FLEMING
GENERAL COUNSEL
MINE SAFETY REVIEW COMMISSION

KENTUCKY MINE SAFETY REVIEW COMMISSION

KENTUCKY DEPT. OF MINES & MINERALS)	
)	
Complainant)	
)	
v.)	Administrative Action No. 03-MSRC-001
)	
DAVID GIST, ALFRED GIBSON, ROLAND)	
DAUGHERTY, FREDDIE JONES,)	
CHARLES MOORE & KEITH JONES)	
)	
)	
Respondents)	

SETTLEMENT AGREEMENT BETWEEN KDMM & CHARLES MOORE

Come the Complainant, the Kentucky Department of Mines & Minerals ("KDMM") and Respondent Charles Moore ("Moore"), and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the dismissal of this action against him and the cancellation of the hearing scheduled for May 8, 2003, Moore hereby admits violating KRS 352.201 (1) - as set forth in paragraph 13 of the Complaint herein - and agrees to the **PROBATION OF HIS SHOTFIRER AND DRILL OPERATOR'S CERTIFICATE (# LO-**-**) FOR A PERIOD OF ONE (1) YEAR, AND THE PROBATION OF HIS ASSISTANT UNDERGROUND MINE FOREMAN'S CERTIFICATE (# A-***-**) FOR A PERIOD OF ONE (1) YEAR**, said penalties effective upon the signing of this Settlement Agreement by both parties.

During said period of probation, if Moore commits any intentional violation of a state or federal mine safety law - or if he orders anyone to violate a state or federal mine safety law -

KDMM may file a motion with the Mine Safety Review Commission to revoke Moore's assistant underground mine foreman's certificate and/or his shotfirer and drill operator's certificate for the remainder of the one (1) year probationary period.¹ In that event, Moore would be entitled to a hearing before the Commission on the allegations against him.

Moore further agrees that this Settlement Agreement, and any final order issued herein by the Mine Safety Review Commission ("the Commission"), will be considered by the Commission to constitute a "first offense", as that term is defined at 805 KAR 8:010, Section 1 (5); and that any future adjudication against him by the Commission - regarding a separate alleged offense - will be deemed a "subsequent offense" as defined at 805 KAR 8:010, Section 1 (13).

The parties state that they have carefully read and considered this Settlement Agreement (or the Respondent has had the Agreement read to him) prior to signing the Agreement, and that they understand and agree to its terms and provisions. KDMM and Moore acknowledge that there are no other promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.

CHARLES MOORE

Williamsburg, Kentucky *****

FRANK X. DELZER, Commissioner
Kentucky Dept. of Mines & Minerals
P.O. Box 2244
Frankfort, Kentucky 40602

¹ If the circumstances warranted, KDMM would also retain the right to file a separate disciplinary action with the Commission seeking other penalties against the Respondent for his conduct.

DATE

DATE

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Settlement Agreement was mailed this _____ day of March, 2003, to: David Gist, *****; Girdler, Kentucky *****; Alfred Gibson, *****; Bear Branch, Kentucky *****; Roland Daugherty, *****; Williamsburg, Kentucky *****; Freddie Jones, *****; Williamsburg, Kentucky *****; Charles Moore, *****; Williamsburg, Kentucky *****; and Keith Jones, *****; Williamsburg, Kentucky *****.

TONY OPPEGARD
General Counsel

KENTUCKY DEPT. OF MINES & MINERALS